

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Applicants appreciate the courtesies extended to Applicants' representative during the August 25th personal interview. The substance of the discussions held are incorporated into the previous amendments and following remarks and constitute Applicants' record of the interview.

Claims 1, 3-8 and 10-14 are pending. By this Amendment, Claims 2 and 9 are canceled and Claims 1, 7, 8 and 14 are amended. No new matter has been added.

Before considering the rejections, it is believed that a brief review of the subject matter of the independent claims would be helpful. In this regard, independent Claim 1 includes an image receiving means for receiving an image, an image mute control means for automatically judging whether or not the image received by the image receiving means is output and an image outputting means for outputting the image received by the image receiving means through a communication line where the image control means judges to output the image. The image mute control means controls the image outputting means not to output the image received by the image receiving means when a power is initially supplied to the image communication device. The image mute controls the image outputting means according to a mute off instruction to output the image receive by the image receiving means.

Independent Claim 7 includes an image communication method for an image communication device including controlling an image output mechanism to not output a received image when a power is initially supplied to the image communication device. The image output mechanism outputs a received image according to a mute off instruction, receives an image, automatically judges whether or not the received image is output and

outputs the received image through a communication line in cases where it is judged to output the received image.

Claim 8 is directed to an image communication device including an image receiving mechanism configured to receive an image. An image mute control mechanism is configured to automatically judge whether or not the image received by the image receiving means is output. An image outputting mechanism is configured to output the image received by the image receiving mechanism through a communication line in cases where the image mute control mechanism judges to output the image. The image mute control mechanism is configured to control the image outputting mechanism not to output the image received by the image receiving means when a power is initially supplied to the image communication device. The image mute control mechanism is configured to control the image outputting mechanism according to a mute off instruction to output the image received by the image receiving mechanism.

Claim 14 is directed to an image communication device including, *inter alia*, a data sending mechanism to send a condition of the image mute control mechanism through the wire communication or the radio communication line.

The Office Action rejects Claims 1, 2, 7, 8, 9 and 14 under 35 U.S.C. § 102(b) over JP-06233289 to Tsutomu et al., Claims 3 and 10 under 35 U.S.C. § 103(a) over Tsutomu and JP 407170507 to Menju et al., Claims 4 and 11 under 35 U.S.C. § 103(a) over Tsutomu in view of USP 6,515,695 to Sato, Claims 5 and 12 under 35 U.S.C. § 103(a) over Tsutomu in view of WO 01/24523 to Kabushiki and Claims 6 and 13 under 35 U.S.C. § 103(a) over Tsutomu and JP 405219500 to Nishimura. These rejections are respectfully traversed.

The Office Action asserts that Tsutomu controls the image output means not to output the image received by the image receiving means when a power is initially supplied to the

image communication device as this is implicit as the power is essential to operate the system. This assertion is respectfully traversed.

Tsutomu's image communication terminal requires that only the user determines whether the video mute instruction is output according to the conditions of the user. Thus the terminal does not judge automatically whether the video mute is on or off and whether the image is output or not. The terminal is not constantly in a mute off condition when power is initially supplied to the terminal. This creates a problem that an operation to output a video mute instruction is troublesome for a user. Also in cases where the video mute instruction is not output due to an erroneous judgment of the user, a problem occurs that an image of the user is carelessly transmitted to the other end of the communication line against the user's intent.

Although power is essential to operate the system, this does not necessarily mean that when power is initially supplied to an image communication device that an image would not be output. In fact, absent hindsight reasoning, it is more likely that the image would be output. The Office Action appears to be making an argument that this feature is inherent. However, as discussed in M.P.E.P. § 2112, the fact that a certain result characteristic may occur is not sufficient to establish inherency. To establish inherency, the extrinsic evidence must make clear that the missing matter is necessarily present in the thing the described in the reference. Inherency may not be established by possibility. Thus, withdrawal of the rejection of amended independent Claims 1, 7, 8 and 14 is respectfully requested.

With respect to dependent Claims 5 and 12, the Office Action recognizes that Tsutomu does not teach the features of dependent Claims 5 and 12. Applicants respectfully disagree with the Office Action's assertion that Kabushiki cures the deficiencies of Tsutomu. Kabushiki relates to suppression of transmission of image data having multiple frames that the user does not need. However, Kabushiki does not disclose image mute control. Instead,

image data is thinned or suppressed based on various conditions. Therefore, the higher the error ratio of the received signal is, the smaller the number of frames transmitted becomes. There is no disclosure of judging whether or not the image is output.

The remaining dependent claims are allowable for at least the reasons discussed above and for the individual features they recite. Withdrawal of the rejection of the dependent claims is respectfully requested.

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. A Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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